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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

THE BOARD OF TRUSTEES of the) No. C 08 01067 CW
CARPENTERS HEALTH AND WELFARE)
TRUST FUND FOR CALIFORNIA;)
CARPENTERS VACATION-HOLIDAY TRUST)
FUND FOR NORTHERN CALIFORNIA;)
CARPENTERS PENSION TRUST FUND FOR) **PROPOSED ORDER GRANTING**
NORTHERN CALIFORNIA; CARPENTERS) **PLAINTIFFS' MOTION FOR**
ANNUITY TRUST FUND FOR NORTHERN) **DEFAULT JUDGMENT**
CALIFORNIA; and CARPENTERS TRAINING)
TRUST FUND FOR NORTHERN)
CALIFORNIA, and CARPENTERS 46) Date: June 6, 2008
NORTHERN CALIFORNIA COUNTIES) Time: 9:30 a.m.
CONFERENCE BOARD for itself and on behalf) Courtroom: A, 15th Floor
of NORTHERN CALIFORNIA CARPENTERS)
REGIONAL COUNCIL and CARPENTERS)
UNION LOCAL NO. 22) **Honorable Joseph C. Spero**

Plaintiffs,

v.

SAUL M. CRUZ, Individually; SAUL M. CRUZ,)
Individually and doing business as SMC)
MODULAR INSTALLATION; MAGDALENA)
L. CRUZ, Individually; MAGDALENA L.)
CRUZ, Individually and doing business as SMC)
MODULAR INSTALLATION; SMC)
MODULAR INSTALLATION; Does 1 through)
10, inclusive)

Defendants.

1 This matter came on for hearing for entry of Judgment by Default against Saul M. Cruz,
 2 Individually; Saul M. Cruz, Individually and doing business as SMC Modular Installation;
 3 Magdalena L. Cruz, Individually; Magdalena L. Cruz, Individually and doing business as SMC
 4 Modular Installation; and SMC Modular Installation (hereinafter "Defendants") on June 6, 2008, at
 5 9:30 a.m., in Courtroom A, 15th Floor. Plaintiffs were represented by Concepción E. Lozano-
 6 Batista of Weinberg, Roger & Rosenfeld; Defendant made no appearance. Having considered the
 7 pleadings and arguments in this matter, and good cause appearing, this Court **FINDS AS**

8 **FOLLOWS:**

- 9 1. The Complaint in this matter was filed with this Court on February 22, 2008.
- 10 2. Defendants were duly served with process in this matter on February 26,
 11 2008.
- 12 3. That no answer or other responsive pleadings having been filed within the
 13 time permitted by law, default was entered against Defendants on April 1, 2008;
- 14 4. The Court finds the allegations in the Complaint on file herein are true
 15 including the fact that the Defendants were bound to a written Collective Bargaining
 16 Agreement with Carpenters 46 Northern California Counties Conference Board, a labor
 17 organization within the meaning of LMRA §301, 29 U.S.C. §150. By virtue of becoming
 18 bound to the Collective Bargaining Agreement, Defendants became subject to all the terms
 19 and conditions of the various Trust Agreements refereed to in the Complaint; and
- 20 5. That Defendants have failed, neglected or refused to submit to an audit as
 21 requested by Plaintiffs pursuant to said Carpenters Master Agreement and Trust
 22 Agreements.

23 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT** Judgment be
 24 entered in favor of Plaintiffs The Board of Trustees of the Carpenters Health and Welfare Trust
 25 Fund for California; Carpenters Vacation-Holiday Trust Fund for Northern California; Carpenters
 26 Pension Trust Fund for Northern California; Carpenters Annuity Trust Fund for Northern
 27 California; and Carpenters Training Trust Fund for Northern California, and Carpenters 46

Northern California Counties Conference Board for itself and on behalf of Northern California Carpenters Regional Council and Carpenters Union Local No. 22 (hereinafter "Plaintiffs") and against Defendants as follows:

1. The Court confirms the Decision and Award of Arbitrator Gerald R. McKay's on Grievance #07-141, issued on November 15, 2007 in its entirety;
2. The Court confirms the Decision and Award of Arbitrator Fred R. Wright on Grievance #07-165, issued on January 9, 2008 in its entirety;
3. The Court confirms the Decision and Award of Arbitrator Fred R. Wright on Grievance #07-166, issued on January 9, 2008 in its entirety;
4. The Court issues an injunction directing Defendants to submit to an audit of its books and records pursuant to the Trust Agreements;
5. Defendants are ordered to pay all amounts found due and owing as a result of said audit of its books and records pursuant to the Trust Agreements;
6. The Court issues an order directing and permanently enjoining Defendants to timely submit all required monthly contribution reports, contributions due and owing plus interest and liquidated damages;
7. Defendants are ordered to pay attorneys' fees in the amount of \$5,023.75;
8. Defendants are ordered to pay costs in the amount of \$3,527.25;
9. Defendants are ordered to pay interest on any amounts found due in an amount to be determined consistent with 26 U.S.C. 6621;
10. This Court shall retain jurisdiction of this matter to enforce the Order compelling an audit and payment of all amounts found due and owing.

Dated: _____

HONORABLE JOSEPH C. SPERO
JUDGE OF THE DISTRICT COURT

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